



U.S. Department of Justice

Tax Division

Via ECF

June 16, 2022

The Honorable Susan D. Wigenton
United States District Judge
District of New Jersey

Re: Request for an Extension of Time Under Rule 25
United States of America v. Frank Giraldi
2:20-cv-02830-SDW-AME (D.N.J.)

Dear Judge Wigenton:

The United States, with consent from opposing counsel, requests a 60-day extension of the time limit to move to substitute a party for Mr. Giraldi. Under Fed. R. Civ. P. 25(a)(1), a motion to substitute must be made within 90 days after service of a statement noting the death of a party. Undersigned counsel for the United States was informed on April 1, 2022 that Mr. Giraldi had passed away. That communication arguably constitutes a “statement noting the death” within the meaning of Fed. R. Civ. P. 25(a)(1), even though it was not filed with the Court.

This Court has the discretion to permit an extension of time for good cause. Fed. R. Civ. P. 6(b); *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 896 (1990). Good cause exists to grant the requested extension to allow the parties additional time to substitute a party for Mr. Giraldi. Further, courts have made clear that the 90-day period of Rule 25 can be enlarged under the Federal Rules of Civil Procedure. *See Lizarazo v. Miami-Dade Corr. & Rehab. Dep’t*, 878 F.3d 1008, 1011 (11th Cir. 2017) (providing that “[d]istrict courts have discretion to extend the Rule 25 ninety-day period for substitution.”); *see also Indyk v. Experian Information Solutions, Inc.*, 2006 U.S. Dist.

- 2 -

LEXIS 35876, 2006 WL 1582093, at *1 (D.N.J. June 2, 2006) (providing that “[t]his 90-day period, however, may be extended by a court pursuant [to] Fed. R. Civ. P. 6(b).”).

Counsel to the United States reached out to Mr. Giraldi’s former counsel of record who consented to this 60-day extension via email on June 10, 2022.

Thus, the United States requests a 60-day extension of the deadline to move to substitute a party for Mr. Giraldi under Fed. R. Civ. P. 25(a), which would extend the deadline to file a motion to substitute to August 29, 2022.

Sincerely yours,

/s/ Alexander R. Kalyniuk

Alexander R. Kalyniuk

Trial Attorney

U.S. DEPARTMENT OF JUSTICE

Post Office Box 227, Ben Franklin Station

Washington, D.C. 20044

Telephone: (202) 616-3309

Facsimile: (202) 514-6866

Email: Alexander.R.Kalyniuk@usdoj.gov

Counsel to the United States of America

Cc: Mark J. Oberstaedt (Via ECF)

